

REMARKS

Claims 1, 2, 4-23, and 28-32 are currently pending in the application. By this amendment, claims 30-32 are added for the Examiner's consideration. Claims 25-27 are canceled without prejudice or disclaimer as being directed to a non-elected invention. Applicants reserve the right to file the subject matter of claims 25-27 in one or more divisional applications. The new claims do not add new matter to the application and are fully supported by the original disclosure. For example, support for the new claims is provided in the claims as originally filed, at Figures 2-11, and at paragraphs [0006], [0041], and [0049], of Applicants' published application (U.S. Pub. No. 2007/0028547). Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

35 U.S.C. §102 Rejection

Claim 1 is rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,086,599 ("Meyerson"). This rejection is respectfully traversed.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See, MPEP §2131. Applicants submit that the applied art does not show each and every feature of the claimed invention.

The invention relates to a device for connecting and locking building boards. More specifically, independent claim 1 recites, in pertinent part:

...wherein the insert is provided with one resilient lip extending upward from a first side edge directed toward the top side of the insert, and another resilient lip extending downward from a second side edge directed toward the bottom side of the insert, and

wherein at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert when the boards are connected by substantially horizontal displacement.

The Examiner asserts that Meyerson discloses all of the features of claim 1 at FIGS. 15 and 16. Particularly, the Examiner asserts that Meyerson discloses an insert at element 40, and that a bottom portion of element 40 constitutes the recited one resilient lip, and that a top portion of element 40 constitutes the recited another resilient lip. Applicants disagree and submit that Meyerson does not disclose all of the features of claim 1.

Instead, Meyerson discloses a building panel joint comprising an I-beam 40 having flexible locking elements 19. As depicted in FIGS. 3A-3D, and as is apparent from FIGS. 15 and 16, when two panels are joined by sliding motion, element 19 first flexes outward away from a center of the I-beam 40, and then springs back inward. FIGS. 3A-3D are reproduced below, and clearly show that the element 19 first flexes outward and then springs back inward during joining of the panels.

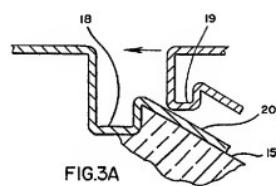


FIG.3A

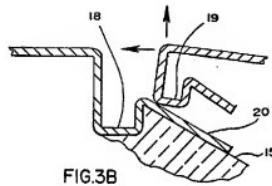


FIG.3B

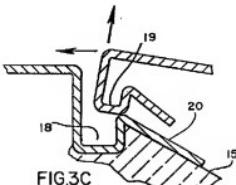


FIG.3C

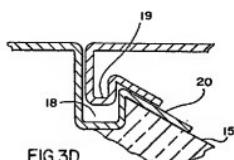


FIG.3D

Thus, the operation of the Meyerson element 40 is opposite of the claim 1, which recites: *at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert.* This recitation of claim 1 is described, for example, at paragraph 0041 of Applicants' published application (i.e., U.S. Pub. No. 2007/0028547), which states:

[0041] The panels 1, 2 are now pushed horizontally together in the transverse direction Q. When the tip 7' enters the groove 15, the bottom side of the resilient lip 7b runs up against the stop slope 15b of the bottom lip 15a and the resilient lip 7b is compressed. When the panels 1, 2 are pushed close enough together, the resilient lip 7b comes under the influence of the groove 3 and springs back. Its tip 7c engages in the groove and locks with the oblique edge 3a. In the transverse direction Q, the panels 1, 2 are locked via the insert. In the vertical direction, the guidance and locking is effected, supportingly, via the tongue 13 and the groove 14.

Meyerson simply does not disclose that, when the boards are connected by horizontal displacement, the one resilient lip and/or the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert. Instead, Meyerson discloses that the element 19 flexes outward and then springs back inward when the boards are connected. Therefore, Meyerson does not disclose *at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert when the boards are connected by substantially horizontal displacement*, as recited in claim 1.

The Examiner asserts at page 3 of the Office Action that Meyerson's lip "can compress towards a center of the insert (by pushing it towards middle member 41) and then spring back out from the center of the insert when the boards are connected by substantially horizontal displacement." Applicants disagree. Element 19 can admittedly flex toward the center of element

40 when no boards are present. However, when the boards are being connected, element 19 abuts the nose 15 of the board, and slides up the ramp 20 (FIGS. 3A-3D, lines 9-38 of col. 4).

Therefore, when the boards are being connected by horizontal displacement, it is impossible for the element 19 to compress toward the center of the element 40 and then spring back outward.

Still regarding the above-noted feature of claim 1, at page 12 of the Office Action, the Examiner asserts that "the connector of Meyerson is inherently capable of doing this action." Applicants disagree with the conclusion of inherency. MPEP 2112 provides the following guidance regarding rejections based on inherency:

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted)

"In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic **necessarily** flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)

Applicants submit that it does not necessarily flow from the teachings of Meyerson that the elements 19 compress toward a center of element 40 and then spring back when the boards are connected by a horizontal movement. Instead, the Examiner appears to be speculating as to

how the Meyerson element 40 might be capable of flexing when no boards are present. As discussed above, Applicants do not disagree that element 19 could be flexed inward toward the center of element 40 when no boards are present. However, the feature at issue in claim 1 recites “when the boards are connected by substantially horizontal displacement.” In Meyerson, when the boards come into contact with element 40, as is required for connecting the boards by horizontal displacement, it is impossible for element 19 to compress toward a center of element 40. This is because the board would block any such inward flexing of element 19.

Therefore, when the claim is interpreted as a whole including the recitation “when the boards are connected by substantially horizontal displacement,” it is clear that Meyerson does not explicitly or inherently disclose *at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert when the boards are connected by substantially horizontal displacement*. As such, Meyerson fails to disclose all of the features recited in independent claim 1, and cannot be said to anticipate the claimed invention.

Accordingly, Applicants respectfully request that the §102 rejection of claim 1 in view of Meyerson be withdrawn.

35 U.S.C. §103 Rejection

Claims 1, 2, 4, 5, 7-12, 14-20 and 28 are rejected under 35 U.S.C. §103(a) for being unpatentable over WO 00/20705 (“Martensson ‘705”) in view of U.S. Pat. No. 4,599,841 (“Haid”). Claim 24 is not listed as rejected under §103 in view of Martensson ‘705 and Haid at page 3 of the Office Action. However, claim 24 appears to be rejected under §103 in view of Martensson ‘705 and Haid, as set forth at page 7 of the Office Action. As such, the record is

unclear with respect to claim 24. Applicants request clarification of this issue in the next Office Action.

Claims 1, 13, and 28 are rejected under 35 U.S.C. §103(a) for being unpatentable over U.S. Pat. No. 6,763,643 (“Martensson ‘643”) in view of Haid. Claim 6 is rejected under 35 U.S.C. §103(a) for being unpatentable over Martensson ‘705 in view of Haid, and further in view of U.S. Pat. No. 2,863,185 (“Riedi”). Claims 21-23 are rejected under 35 U.S.C. §103(a) for being unpatentable over Meyerson. Claim 29 is rejected under 35 U.S.C. §103(a) for being unpatentable over Martensson ‘643 in view of Riedi. These rejections are respectfully traversed.

To establish a *prima facie* case of obviousness, all claim limitations must be taught or suggested by the prior art. *See, In re Royka*, 490 F.2d 981, 985, 180 USPQ 580, 583 (CCPA 1974); *see also, In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). If the prior art reference(s) do not teach or suggest all of the claim limitations, Office personnel must explain why the differences between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art (MPEP 2141).¹ Applicants submit that no proper combination of the applied art discloses or suggests the combination of features recited in the claimed invention.

Claims 1, 2, 4, 5, 7-12, 14-20, 24, and 28 in view of Martensson ‘705 and Haid.

Independent claim 1 recites in pertinent part:

...wherein the insert is provided with one resilient lip extending upward from a first side edge directed toward the top side of the insert, and another resilient lip extending downward from a second side edge directed toward the bottom side of the insert, and

wherein at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center

¹ While the *KSR* court rejected a rigid application of the teaching, suggestion, or motivation (“TSM”) test in an obviousness inquiry, the [Supreme] Court acknowledged the importance of identifying ‘a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does’ in an obviousness determination.” *Takeda Chemical Industries, Ltd. v. Alphapharm Pty., Ltd.*, 492 F.3d 1350, 1356-1357 (Fed. Cir. 2007) (quoting *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1731 (2007)).

of the insert when the boards are connected by substantially horizontal displacement.

The Examiner asserts that Martensson '705 teaches an insert 10 having a resilient lip extending upward in one embodiment (Figs. 7a-7c), and a resilient lip extending downward in another embodiment (Fig. 7d). The Examiner acknowledges, and Applicants agree, that Martensson '705 does not disclose an embodiment in which one lip extends upward from a first side edge and another lip extends downward from a second side edge. The Examiner asserts that Haid teaches an insert having a resilient lip 8 extending upward and another lip 8 extending downward. The Examiner asserts that it would have been obvious to modify Martensson '705 to include one resilient lip extending upward from a first side edge directed toward the top side of the insert and another resilient lip extending downward from a second side edge directed toward the bottom side of the insert in order to make the insert more fully engage the grooves of the boards, creating a stronger connection. Applicants disagree and submit that no proper combination of Martensson '705 and Haid teaches the combination of features recited in claim 1.

More specifically, neither Martensson '705 nor Haid teaches *at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert when the boards are connected by substantially horizontal displacement*, as recited in claim 1. Instead, Martensson '705 discloses a joining profile 10 having lips 11 provided with gripping hooks 16. Martensson '705 does not disclose that the gripping hooks 16 compress toward a center of the joining profile 10 and then spring back out from the center of the joining profile 10 when the boards 1 are joined by horizontal movement. To the contrary, there is no teaching in Martensson '705 that the gripping hooks 16 are even flexible or resilient, much less that the gripping hooks 16 compress inward and then

spring back outward during joining. Therefore, Martensson '705 does not disclose or suggest *at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert when the boards are connected by substantially horizontal displacement*, as recited in claim 1.

In the Response to Arguments section at page 12 of the Office Action, the Examiner asserts that the Martensson '705 profile 10 inherently functions such that *at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert when the boards are connected by substantially horizontal displacement*, as recited in claim 1. The Examiner admits "the specification does not say it occurs," but contends "there is no way the connector could be inserted without it inherently happening." Applicants disagree. More specifically, Applicants submit that it is not inherent in Martensson '705 that the hooks 16 of profile 10 compress toward a center of profile 10 and then spring back out from the center when the boards are connected by horizontal displacement. As noted above, MPEP 2112 provides the following guidance with respect to rejections based on inherency:

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted)

"In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)

Applicants submit that it does not necessarily flow from the teachings of Martensson '705 that the hooks 16 of profile 10 compress toward a center of profile 10 and then spring back out from the center when the boards are connected by horizontal displacement. Instead, the Examiner appears to be resorting to speculation as to how the Martensson '705 system might operate. For example, the Examiner inaccurately contends that "there is no way the connector could be inserted without it inherently happening." However, contrary to the Examiner's assertion, it is well known in the flooring panel industry that portions of the profiled edges of boards may flex during connection of the boards. As such, there is indeed another way for the boards of Martensson '705 to be connected without the hooks 16 of profile 10 compressing toward a center of profile 10 and then springing back out from the center. Therefore, contrary to the Examiner's assertion, the recited feature is not inherent in Martensson '705.

Haid also fails to teach *at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert when the boards are connected by substantially horizontal displacement*, as recited in claim 1. Instead, Haid discloses a joining moulding 5 having deformable teeth 8. In contrast to the claimed invention, the teeth 8 do not compress inward and then spring back out when the boards 1a and 1b are connected by substantially horizontal displacement. Instead, the teeth 8 merely remain deformed when the boards are pressed together, and there is no disclosure (express or implied) of the teeth 8 springing back out. In fact, it would not even be possible for the teeth 8 to

decompress, as the walls 9a, 9b of the groove would prevent the teeth 8 from springing back. If the teeth 8 were allowed to spring back, the boards 1a, 1b would not be held together.

Therefore, both Martensson '705 and Haid fail to disclose or suggest *at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert when the boards are connected by substantially horizontal displacement*, as recited in claim 1. Accordingly, no proper combination of Martensson '705 and Haid renders claim 1 unpatentable.

Claims 2, 4, 5, 7-12, 14-20, 24, and 28 depend from independent allowable claim 1, and are allowable based on the allowability of claim 1. Moreover, the applied art fails to teach many of the features recited in the dependent claims.

Claim 4

Claim 4 depends from independent claim 1, and additionally recites *each resilient lip has a tip running obliquely to the top side and bottom side, which tip, for locking, cooperates with an obliquely running edge*. The Examiner asserts that Martensson '705 teaches the features of claim 4 at FIGS. 7b, 7c, and 7d. Applicants disagree. Neither Martensson '705 and Haid discloses or suggests a lip having a tip running obliquely to the top side and bottom side, which cooperates with an obliquely running edge for locking.

Instead, Martensson '705 shows a vertical surface of the gripping hook 16 on the upper side cooperates with a vertical edge of undercut 46 for locking purposes. However, the vertical surface of the gripping hook 16 does not run obliquely to the top side and bottom side of the insert; instead, it is perpendicular to the top side and the bottom side. Perpendicular is not oblique. For example, <http://dictionary.reference.com/browse/oblique> defines "oblique" as "neither perpendicular nor parallel to a given line or surface; slanting; sloping." Therefore, the

vertical surface of the gripping hook 16 does not run obliquely to the top side and bottom side of the insert.

Moreover, the vertical edge of the board is not an obliquely running edge; instead it is also a perpendicular, vertical edge. Therefore, the Martensson '705 gripping hook 16 does not constitute *a tip running obliquely to the top side and bottom side, which tip, for locking, cooperates with an obliquely running edge*, as recited in claim 4.

Accordingly, Applicants respectfully request that the §103 rejection of claims 1, 2, 4, 5, 7-12, 14-20, 24, and 28 in view of Martensson '705 and Haid be withdrawn.

Claims 1, 13, and 28 in view of Martensson '643 and Haid.

Martensson '643 is a national stage application of Martensson '705, such that the same reasons discussed above with respect to Martensson '705 are applicable for distinguishing the claimed invention from Martensson '643. Particularly, neither Martensson '643 nor Haid teaches *at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert when the boards are connected by substantially horizontal displacement*, as recited in claim 1. Instead, Martensson '643 only discloses a joining profile 10 having lips 11 provided with gripping hooks 16. Martensson '643 does not disclose that the gripping hooks 16 compress toward a center of the joining profile 10 and then spring back out from the center of the joining profile 10 when the boards 1 are joined by horizontal movement. To the contrary, there is no teaching in Martensson '643 that the gripping hooks 16 are even flexible or resilient, much less that the gripping hooks 16 compress inward and then spring back outward during joining. Moreover, as discussed above, this feature is not inherent in the teachings of Martensson '643.

Haid also fails to disclose compressing inward and then springing back out, as discussed *supra*. Accordingly, Applicants submit that no proper combination of Martensson '643 and Haid discloses or suggest all of the features of independent claim 1.

Claims 13 and 28 depend from allowable independent claim 1, and are allowable based on the allowability of claim 1. Moreover, the applied art fails to teach many of the features recited in the dependent claims.

Claim 13

Claim 13 depends from independent claim 1, and additionally recites *the board is provided on one side edge with a tongue pointing substantially in the transverse direction and on the other side edge with a groove corresponding thereto*. The Examiner asserts that Martensson '643 discloses a tongue 22 and a groove 21 at Fig. 8. Applicants do not disagree that Martensson '643 discloses a tongue 22 and a groove 21. However, Applicants submit that the Examiner is improperly picking-and-choosing features from different embodiments of Martensson '643 when these different embodiments are not disclosed as having interchangeable features.

On the one hand, the Examiner relies on the embodiments shown in Figs. 7a-7d of Martensson '643 to show the features of claim 1. On the other hand, the Examiner identifies the features of claim 13 in Fig. 8. However, Fig. 8 shows a different embodiment than Figs. 7a-7d. More specifically, Fig. 8 shows an embodiment in which the joining profile 10 is arranged below the boards, whereas Figs. 7a-7d show embodiments in which the joining profile 10 is arranged within grooves on vertical side edges of the boards. Martensson '643 does not disclose or suggest that the features of Fig. 8 can be used with the embodiments of Figs. 7a-7d. Moreover, the Examiner has not identified any reason that would have prompted one of ordinary skill to modify the embodiments of Figs. 7a-7d to include the tongue and groove of Fig. 8. Therefore,

Martensson '643 and Haid do not teach or suggest the features of claim 13, which includes the features and claim 1 and further recites wherein *the board is provided on one side edge with a tongue pointing substantially in the transverse direction and on the other side edge with a groove corresponding thereto.*

Accordingly, Applicants respectfully request that the §103 rejection of claims 1, 13, and 28 in view of Martensson '643 and Haid be withdrawn.

Claim 6 in view of Martensson '705, Haid, and Riedi.

Claim 6 depends from allowable independent claim 1, and is allowable based on the allowability of claim 1. As discussed above, Martensson '705 and Haid do not teach or suggest *at least one of the one resilient lip and the another resilient lip compresses toward a center of the insert and then springs back out from the center of the insert when the boards are connected by substantially horizontal displacement*, as recited in claim 1. Riedi also fails to disclose this feature, such that no proper combination of the applied art teaches the combination of features recited in claim 1, from which claim 6 depends.

Accordingly, Applicants respectfully request that the §103 rejection of claim 6 in view of Martensson '705, Haid, and Riedi be withdrawn.

Claims 21-23 in view of Meyerson.

Claims 21-23 depend from allowable independent claim 1, and are allowable based on the allowability of claim 1. As discussed above, Meyerson does not disclose or suggest the combination of features recited in claim 1, from which claims 21-23 depend.

Moreover, Meyerson does not teach the features recited in claim 21, which recites:

... the one resilient lip extends from the first side edge toward a center of the insert and has a length greater than half the distance between the first side edge and the center of the insert, and

the another resilient lip extends from the second side edge toward the center of the insert and has a length greater than half the distance between the second side edge and the center of the insert.

The Examiner acknowledges that Meyerson does not teach these features, but asserts that it would have been a matter of obvious design choice to make the lips of Meyerson longer because such a modification would have involved a mere change in a size of a component (Office Action, page 10). Applicants disagree.

Applicants submit that the Examiner's assertion of "design choice" is insufficient to establish a *prima facie* case of obviousness because it is not factually supported and because it is conclusory. It is well established that the examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness (MPEP §2142). Rejections based on §103 must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. The Office may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. *See, In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968). Moreover, as mandated by the Supreme Court and subsequently adopted in MPEP 2142, conclusory rejections are improper:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988,

78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

In this rejection, the Examiner does not provide any basis in fact or articulated reasoning to support the conclusion that it would have been obvious to modify Meyerson's element 40 such that *the one resilient lip extends from the first side edge toward a center of the insert and has a length greater than half the distance between the first side edge and the center of the insert, and the another resilient lip extends from the second side edge toward the center of the insert and has a length greater than half the distance between the second side edge and the center of the insert*, as recited in claim 21. Furthermore, the Examiner does not provide any basis in fact or articulated reasoning to support the conclusion that that one of ordinary skill in the art would have recognized that the results of such a modification of Meyerson would have been predictable. Instead, the Examiner merely concludes that it would have been obvious through "design choice" to modify Meyerson to arrive at the claimed invention. This type of factually unsupported and conclusory rejection is clearly improper in light of *KSR*. Therefore, the Examiner has committed clear and reversible error in rejecting claim 21 in this manner.

Accordingly, Applicants respectfully request that the §103 rejection of claims 21-23 in view of Meyerson be withdrawn.

Claim 29 in view of Martensson '643 and Riedi.

Applicants submit that the rejection of claim 29 is improper and unsustainable because the Examiner has failed to even assert, much less factually establish, a *prima facie* case of obviousness. Claim 29 depends from claim 28, which depends from independent claim 1. Accordingly, claim 29 includes the features of claim 1 including, *inter alia, one resilient lip*

extending upward from a first side edge directed toward the top side of the insert, and another resilient lip extending downward from a second side edge directed toward the bottom side of the insert. However, the art applied in rejecting claim 29 (i.e., Martensson '643 and Riedi) does not teach these features.

Particularly, neither Martensson '643 nor Riedi teaches one lip extending upward and another lip extending downward. Nor has the Examiner even asserted that Martensson '643 or Riedi teaches these features. Instead, in the rejection of claim 1, the Examiner relied on Haid to teach *another resilient lip extending downward from a second side edge directed toward the bottom side of the insert.* However, Haid is not used in the rejection of claim 29. Instead, only Martensson '643 and Riedi are applied in the rejection of claim 29. Since Martensson '643 and Riedi both fail to disclose or suggest *one resilient lip extending upward from a first side edge directed toward the top side of the insert, and another resilient lip extending downward from a second side edge directed toward the bottom side of the insert,* Applicants submit that the applied art does not teach all of the features of claim 29. Therefore, the Examiner has committed clear and reversible error in rejecting claim 29 under §103 in view of Martensson '643 and Riedi.

In any event, Applicants submit that Martensson '643 and Riedi do not teach the features additionally recited in claim 29. For example, neither Martensson '643 nor Riedi discloses *each resilient lip has a tip running obliquely to the top side and bottom side, the tip, for locking, cooperates with an obliquely running edge.* The Examiner relies on Martensson '643 to teach this feature. However, as discussed above with respect to claim 4, Martensson '643 shows that a vertical edge of hook 16 cooperates with a vertical edge of undercut 46 for locking. The vertical edges of the hook 16 is not a tip running obliquely to the top side and bottom side. Instead, the vertical edge of the hook 16 is perpendicular to the top side and the bottom side. As discussed

above, perpendicular is not oblique. Moreover, the vertical edge of the undercut 46 is not an obliquely running edge. Instead, the vertical edge of the undercut 46 is perpendicular to the top side and the bottom side. Therefore, Martensson '643 does not disclose *each resilient lip has a tip running obliquely to the top side and bottom side, the tip, for locking, cooperates with an obliquely running edge*, as recited in claim 29.

Furthermore, Applicants submit that neither Martensson '643 nor Riedi discloses *the board is provided on one side edge with a tongue pointing substantially in the transverse direction and on the other side edge with a groove corresponding thereto*. The Examiner relies on Martensson '643 to teach this feature. However, as discussed above with respect to claim 13, Martensson '643 does not disclose that the tongue 22 and groove 21 of Fig. 8 are useable in the embodiments depicted in Figs. 7a-7b. Therefore, the Examiner is improperly picking-and-choosing different features from unrelated embodiments of Martensson '643 in an attempt to arrive at the claimed invention.

For all of the above noted reasons, Applicants submit that the rejection of claim 29 is improper. Accordingly, Applicants respectfully request that the §103 rejection of claim 29 in view of Martensson '643 and Riedi be withdrawn.

New Claims

Claims 30-32 are added by this amendment and are believed to be distinguishable from the applied art at least for the following reasons. Claims 30-32 depend from allowable independent claim 1, and are distinguishable from the applied art at least for the reasons discussed above with respect to claim 1. Moreover, claims 30-32 recite additional features that further distinguish the claimed invention.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 19-0089.

Respectfully submitted,
Thomas GRAFENAUER



Andrew M. Calderon
Reg. No. 38,093

July 16, 2009
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191